```
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
------------------------------------X
UNITED STATES OF AMERICA,          x    S5 02 Cr. 1237 (SWK)
                                   x
                                   x
                                   x    OPINION & ORDER
             -against-             x
                                   x
                                   x
ANGELO DIPIETRO ET. AL.,           x
                                   x
                 Defendant.        x
------------------------------------X
```

SHIRLEY WOHL KRAM, U.S.D.J.

Defendant Pizzuti's motion to dismiss Count 10 of the indictment as legally insufficient is denied.

Government Exhibit 541 (the "JP letter"), which, pursuant to Crawford v. Washington, 541 U.S. 36 (2004), is not admissible for the truth of the statements contained therein, is admissible for the limited purpose of showing that Defendants Capalbo, Pizzuti, and Bringman possessed the intent to impair the integrity or availability of the electronic files on Perazzo's computer and to show those same defendants' motive for seeking to destroy the document. The Court will give the jury an appropriate limiting instruction on the proper use of this piece of evidence.[1]
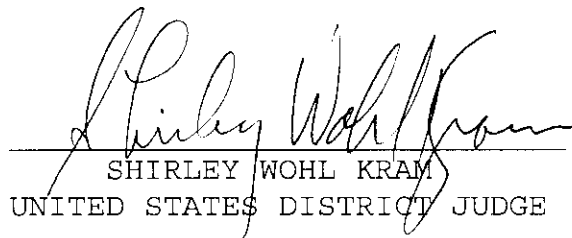
---

[1] The defendants' contention that the Government's proposed limiting instruction is unconstitutional pursuant to United States v. Lopez, 372 F.3d 86 (2d Cir. 2004) is without merit, as Lopez provides no basis to include Defendant

Defendant Michael Pizzuti asks the Court to order the Government to make a thorough search of its files and immediately disclose all <u>Brady</u> material to the defense. Because the Court is confident that the Government is aware of its obligation to turn over any and all exculpatory material under <u>Brady</u>, no order will issue at this time.

Defendant Harold Bringman's application for a mistrial based on the ground that "it's hard to know what it is Mr. Bringman, or for that matter any of the defendants, are charged with," <u>see</u> May 17, 2005 Tr. at 1506-07, is denied.

With respect to the forthcoming cross examination of Maurizio Sanginiti, the Court reminds counsel that no references to the witness's alleged involvement in prostitution, extramarital affairs or any other illicit sexual activity may be solicited from the witness.

SO ORDERED.

_____
SHIRLEY WOHL KRAM
UNITED STATES DISTRICT JUDGE

Dated: May 18, 2005
           New York, New York

Pizzuti's proposed additional language in the limiting instruction.